

Commodity Futures Trading Commission

§ 10.112

filed and perfected in accordance with § 10.102 of these rules;

(6) Strike any filing that does not meet the requirements of, or is not perfected in accordance with, part 10 of these rules;

(7) Stay, for a limited period of time not to exceed ten working days, any order of the Commission entered in a proceeding subject to these rules;

(b) Notwithstanding the provisions of paragraph (a) of this section, in any case in which the General Counsel or his designee believes it appropriate, he may submit the matter to the Commission for its consideration;

(c) Within seven (7) days after service of a ruling issued pursuant to paragraph (a) of this section, a party may file with the Proceedings Clerk a petition for Commission reconsideration of the ruling. Unless the Commission orders otherwise, the filing of a petition for reconsideration shall not operate to stay the effective date of such ruling.

[50 FR 33515, Aug. 20, 1985, as amended at 60 FR 54802, Oct. 26, 1995; 64 FR 43071, Aug. 9, 1999]

Subpart I—Restitution Orders

SOURCE: 63 FR 55795, Oct. 19, 1998, unless otherwise noted.

§ 10.110 Basis for issuance of restitution orders.

(a) *Appropriateness of restitution as a remedy.* In any proceeding in which an order requiring restitution may be entered, the Administrative Law Judge shall, as part of his or her initial decision, determine whether restitution is appropriate. In deciding whether restitution is appropriate, the Administrative Law Judge, in his or her discretion, may consider the degree of complexity likely to be involved in establishing claims, the likelihood that claimants can obtain compensation through their own efforts, the ability of the respondent to pay claimants damages that his or her violations have caused, the availability of resources to administer restitution and any other matters that justice may require.

(b) *Restitution order.* If the Administrative Law Judge determines that restitution is an appropriate remedy in a

proceeding, he or she shall issue an order specifying the following:

(1) All violations that form the basis for restitution;

(2) The particular persons, or class or classes of persons, who suffered damages proximately caused by each such violation;

(3) The method of calculating the amount of damages to be paid as restitution; and

(4) If then determinable, the amount of restitution the respondent shall be required to pay.

§ 10.111 Recommendation of procedure for implementing restitution.

Except as provided by § 10.114, after such time as any order requiring restitution becomes effective (*i.e.*, becomes final and is not stayed), the Division of Enforcement shall petition the Commission for an order directing the Division to recommend to the Commission or, in the Commission's discretion, the Administrative Law Judge a procedure for implementing restitution. Each party that has been ordered to pay restitution shall be afforded an opportunity to review the Division of Enforcement's recommendations and be heard.

§ 10.112 Administration of restitution.

Based on the recommendations submitted pursuant to § 10.111, the Commission or the Administrative Law Judge, as applicable, shall establish in writing a procedure for identifying and notifying individual persons who may be entitled to restitution, receiving and evaluating claims, obtaining funds to be paid as restitution from the party and distributing such funds to qualified claimants. As necessary or appropriate, the Commission or the Administrative Law Judge may appoint any person, including an employee of the Commission, to administer, or assist in administering, such restitution procedure. Unless otherwise ordered by the Commission, all costs incurred in administering an order of restitution shall be paid from the restitution funds obtained from the party who was so sanctioned; provided, however, that if the administrator is a Commission employee, no fee shall be charged for his